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Paper No. 5

Michael Chan
Intellectual Property Section
NCR Corporation
1700 South Patterson Blvd.
Dayton OH 45479-0001

In re Application of
Richard Cudd, Matthew A. Ward, Roderick
J.M. Macleod, and Michael Waller
Application No. 09/943,113
Filed: August 30, 2001
Attorney Docket No. 9494.00
Title: DOWNLOADING AND UPLOADING
DATA IN INFORMATION NETWORKS

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FEB 05 2003

OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. 1.47(a)¹, filed March 13, 2002.

The petition under 37 C.F.R. §1.47(a) is GRANTED.

The above-identified application was filed on August 30, 2001, identifying Richard Cudd, Matthew A. Ward, Roderick L.M. Macleod, and Michael Waller as joint inventors. On October 3, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration, and a declaration executed only by Richard Cudd. To make timely this

¹A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application;
- (3) a statement of the last known address of the non-signing inventors;
- (4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
- (5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
- (6) a declaration which complies with 37 CFR §1.63.

reply, a four-month extension of time has been charged to petitioner's Deposit Account, as authorized in the petition².

Accompanying the petition was a statement from the attorney of record, Michael Chan, a copy of the application, a declaration of facts signed by the attorney of record, a declaration of facts signed by the attorney of record's assistant, a listing of the last-known address for each non-signing inventor, copies of the cover letters sent to the non-signing inventors which requested that they sign the declaration, and copies of the non-signing inventors employment agreements which establish that each of them was required to assign any inventions to their employers.

The submitted documents submitted establish that a copy of the application was sent to each of the non-signing inventors, and they have failed to respond.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

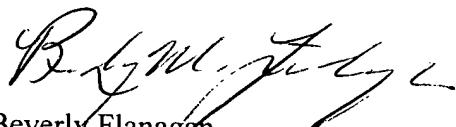
As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office



Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark
Office

² Petitioner has requested a three-month extension of time, when a four-month extension was required. The Notice was mailed on October 3, 2002, and set a 2 month period for reply. Hence, the reply was due on December 3, 2001. Three months from December 3, 2001 is March 3, 2002. The reply contains a certificate of mailing dated March 4, 2002.